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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,431	03/20/2001	Earl C. Herleikson	10991734-1	9848
38107	7590	08/23/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			ODOM, CURTIS B	
595 MINER ROAD			ART UNIT	
CLEVELAND, OH 44143			PAPER NUMBER	

2611

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,431

Applicant(s)

HERLEIKSON ET AL.

Examiner

Curtis B. Odom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7-11, 17, 18, 20-22, 24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 4, 5, 7, 8, 10, 17, 18, 21, 22, 24 and 28 is/are allowed.
- 6) ☐ Claim(s) 20 and 27 is/are rejected.
- 7) ☐ Claim(s) 3, 9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 3, 9, and 11 are objected to because of the following informalities:
 - a. In claim 3, the phrase “The method of claim 17, wherein the step of directing input signals into the patient’s body includes transmitting current signals into the patients’s body and the step of detecting the output signals...” is suggested to be changed to “The measurement device of claim of 17, wherein the transmitting means comprises means for transmitting current signals into the patient’s body and the detecting means comprises means for measuring voltage signals.
 - b. In claim 9, the phrase “wherein the measured parameter signals are impedance signals the analyzing means” is suggested to be changed to “wherein the measured parameter signals are impedance signals and the analyzing means”.
 - c. In claim 11, the phrase “the heart rate” is suggested to be changed to “a heart rate”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claims 20 and 27, claim 20 recites the limitation “a signal detector configured...to despread the detected spread spectrum electrical signal to produce a measured parameter signal”. However, the specification discloses (see page 8, lines 10-16) producing a measured parameter signal by cross-correlating detected parameters with transmitted parameters. The specification does not disclose the function of “despreading” the detected spread spectrum signal to produce a measure parameter signal, nor does the specification disclose a correlation between the cross-correlation and “despreading”. The examiner cannot find disclosure describing **“a signal detector configured...to despread the detected spread spectrum electrical signal to produce a measured parameter signal”**.

Allowable Subject Matter

4. Claims 2-5, 7-11, 17, 18, 21, 24, and 28 are allowable over prior art (if above objections are overcome) references because related references do not disclose transmitting a spread spectrum signal into a patient's body and detecting signals corresponding to the transmitted spread spectrum signal by cross-correlating the detected signals with the input spread spectrum signal to generate a measured parameter signal which measures a physiological condition.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Welch et al. ("Practical Spread Spectrum Pulse Compression for Ultrasonic Tissue Imaging", IEEE Transactions on Ultrasonics, Ferroelectrics, and Frequency Control, Vol. 45, NO. 2, March 1998) discloses using a spread spectrum signal for ultrasonic tissue imaging but does not disclose detecting the signal by cross-correlating the detected signals with input spread spectrum signal to generate a measured parameter signal which measures a physiological condition.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis B. Odom whose telephone number is 571-272-3046. The examiner can normally be reached on Monday- Friday, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Curtis Odom', followed by a long horizontal line extending to the right.

Curtis Odom
August 21, 2006